



SB 1092: An aberration in administration of the law

Senate Finance Committee – Bennett Minton – 5/9/2023

Chair Meek, members of the committee:

I'm Bennett Minton with Tax Fairness Oregon. We are a network of volunteers who advocate a rational and equitable tax code.

This bill appears to arise from the application of the estate tax to a single taxpayer. The hearing record provides neither the taxpayer's name nor circumstances. Yet the bill would have sweeping consequences harmful to fair administration of the law, all because one estate faces consequences from having failed to comply with it.

A quick search of the Web indicates that a [Lewis Edgar Furber](#) died in Klamath Falls on August 1, 2018. Senator Linthicum, who represents Klamath Falls, introduced SB 1092 at the request of a Lewis Furber, Jr. During the committee hearing, senators suggested that the Covid shutdown—which began 18 months later—somehow interfered with the obligation of the executor to file an estate tax return.

It is breathtaking that the committee would consider waiving penalties for failure to comply with the law for a six-year period. So far as we may infer from DOR's testimony and the bill, the estate still has not filed a return.

A few weeks ago, the committee heard a bill arising from the government's error with respect to property tax. The taxpayer appeared before the committee, and the facts and circumstances of the government's error were put on the record. [HB 2086](#) was intended to correct a government error potentially affecting other taxpayers. Appropriately so.

In this case, the government made no error. The error—or choice—was the taxpayer's.

Yet the bill would direct the Department of Revenue to “waive all penalties and interest otherwise imposed pursuant to ORS 118.260 on an estate for failure to file a return or pay the tax imposed under this chapter, or for late filing or payment” for estates of those who die from the beginning of 2018 to the beginning of 2024. More than 6,000 estates would be potentially affected.

As stewards of the tax code, you might imagine the precedent that mere consideration of this proposal creates: Anybody with a self-created circumstance about his obligations can seek to have the legislature turn the tax system on its head—for a period subject to the dispute with the state. The bill signals Oregonians: If I don't comply with a law, I can get the legislature to bail me out.

We read the bills and follow the money

So I was dubious that the [statement submitted](#) by one Brian Boquist was that of the vice chair. “SB 1092 is a good solution to assist citizens who experience multiple deaths in their families.”

I would say: SB 1092 is a bonanza for citizens who fail to comply with estate-tax law between 2018 and 2024.

If the committee in its wisdom were to decide that the penalties associated with failure to comply with the law are too onerous, or that DOR should have additional authority and direction to waive penalties, then it could change them. But that is not the issue.

If I were before a court, on behalf of Oregon’s taxpayers, I would move to dismiss this case with prejudice. As this is the Senate Finance Committee, I fear for the fair administration of the law.